

### REMARKS

The Final Office Action dated June 24, 2005 contained a final rejection of claims 1-32. The Applicants have amended claims 1-32. Claims 1-32 are in the case. Please consider the present amendment with the attached Request for Continued Examination (RCE) under 37 C.F.R. § 1.114. This amendment is in accordance with 37 C.F.R. § 1.114. Reexamination and reconsideration of the application, as amended, are requested.

The Office Action objected to claims 1-32 due to informalities. Also, the Office Action rejected claims 1-32 under 35 U.S.C. Section 112, first paragraph, as failing to comply with the written description requirement. Last, the Office Action rejected claims 1, 7, 13, 19, 23, 27, and 30 under 35 U.S.C. Section 112, second paragraph, as being indefinite.

Specifically, in a telephonic conversation with the Examiner on August 22, 2005, the Examiner stated that the use of the "/" character throughout the claims rendered the claims unclear.

In response, the Applicants have amended the claims as suggested by the Examiner to overcome the informality objection. Further, the Applicants have amended all of the claims as suggested by the Examiner to remove the "/" character and multiple terms associated with the "/" character to clarify the claims and to overcome the rejections under 35 U.S.C. Section 112, first and second paragraphs.

It should be noted, with regard to the statement made on page 3 of the Office Action regarding the rejection under 35 U.S.C. Section 112 about the claimed "biometric signature", the Applicants submit that the biometric signature of the claims is well supported on pages 2-4, 7-10, 11-13, and in FIG. 5.

According to Stahelin v. Seher, 24 USPQ2d, 1513 (B.P.A.I. 1992), "[I]t has been consistently held that the first paragraph of 35 USC 112 required nothing more than objective enablement...How such a teaching is set forth, whether by use of illustrative

examples or by broad descriptive terminology, is of no importance since a specification which teaches how to make and use the invention in terms which correspond in scope to the claims *must* be taken as complying with the first paragraph of 35 USC 112 *unless* there is a reason to doubt the objective truth of the statements relied upon there for enabling support." *Id.* At 1516 (citing In re Marzocchi, 439 F.2d 220, 169 USPQ 367 (C.C.P.A 1971)) (emphasis in original).

The Applicants submit that the original specification does not contain any reason to doubt pages 2-4, 7-10, 11-13, and in FIG. 5 or the description of the amended claimed elements of a "...biometric signature to indicate receipt of the e-media by the receiving party to allow the sender to make future e-media delivery decisions..." The Federal Circuit has clearly stated that patent applications should be written for persons familiar with the relevant field; the patentee is not required to include in the specification specific programming code as long as the concept is readily understood by practitioners. Otherwise, every patent would be written as a comprehensive tutorial and treatise for the generalist, instead of a concise statement for persons in the field. Verve LLC v. Crane Cams Inc., 311 F.3d 1116, 65 USPQ 2d 1051, 1053-54 (Fed. Cir. 2002).

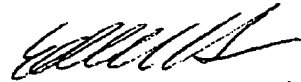
For example, the court in Enzo Biochem, Inc. v. Calgene, Inc., 52 USPQ 2d 1129, 1135-36 (Fed. Cir. 1999) concluded that a patent specification complies with the statute even if a "reasonable" amount of routine experimentation is required in order to practice a claimed invention, as long as the experimentation is not undue. As such, the description in the specification provides enough enabling support for the claimed "...biometric signature to indicate receipt of the e-media by the receiving party to allow the sender to make future e-media delivery decisions..." Thus, for the reasons as set forth above, the Applicants submit that the rejection should be withdrawn because the claims are enabling and comply with 35 U.S.C. § 112, first paragraph.

In view of the arguments and amendments set forth above, the Applicants respectfully submit that the rejected claims are in immediate condition for allowance. The Examiner is therefore respectfully requested to withdraw the outstanding claim

rejections and to pass this application to issue. Additionally, in an effort to expedite and further the prosecution of the subject application, the Applicants kindly invite the Examiner to telephone the Applicants' attorney at (818) 885-1575. Please note that all correspondence should continue to be directed to:

Hewlett Packard Company  
Intellectual Property Administration  
P.O. Box 272400  
Fort Collins, CO 80527-2400

Respectfully submitted,  
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Edmond A. DeFrank  
Reg. No. 37,814  
Attorney for Applicants  
(818) 885-1575 TEL  
(818) 885-5750 FAX